

HLD-67 (March 2007)

March 9, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 06-4198

MICHAEL EVANS,  
Appellant  
vs.

SUPERINTENDENT, STATE CORRECTIONAL  
INSTITUTION ROCKVIEW, et al.  
(W.D. Pa. Civ. No. 00-cv-00664)

Present: SCIRICA, Chief Judge, WEIS and GARTH, Circuit Judges

Submitted is:

Appellant's notice of appeal, which may be construed as a request for a  
certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied. The majority of Appellant's Rule 60(b) motion constitutes a second or successive habeas petition. See Gonzalez v. Crosby, 545 U.S. 524, 531-32 (2005). Because Appellant did not receive authorization from this Court to file the motion, the District Court lacked authority to consider these claims. See 28 U.S.C. § 2244. However, Appellant's motion also attacked the integrity of the underlying § 2254 proceeding. With respect to this claim, Appellant failed to show that jurists of reason would debate that the District Court's procedural ruling was incorrect. See Morris v. Horn, 187 F.3d 333, 340 (3d Cir. 1999).

By the Court,

Dated: March 21, 2007  
CMD/CH: Mr. Michael Evans  
Rebecca D. Spangler, Esq.

 s/WEIS  
United States Circuit Judge  
A True Copy

*Marcia M. Waldron*

Marcia M. Waldron, Clerk